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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,707	08/05/2003	Thomas E. Nahill	18025 USA	7388
21127	7590	12/14/2006	EXAMINER	
RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP			MCDOWELL, SUZANNE E	
ONE STATE STREET			ART UNIT	PAPER NUMBER
SUITE 800				
BOSTON, MA 02109			1732	

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/634,707	NAHILL ET AL.
	Examiner	Art Unit
	Suzanne E. McDowell	1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 September 2006.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ekart et al. (US Patent 5,945,460) in view of Kikuchi et al. (US Patent 6,929,836). Ekart et al. teaches the basically claimed method of preparing a polyester polymer from monomers in melt-phase and feeding the polymer directly to a molding or shaping machine without solidifying the polyester (column 2, lines 48-51). In example 3, Ekart et al. teaches flowing the polymer to ten molding extruders and into ten molding machines to form bottles (column 8, lines 8-15). Ekart et al. does not specifically teach that the molding or shaping machine is a compression molding machine. Kikuchi et al. teaches continuously supplying resins from an extruder (21,22) into a compression molding device (20) by cutting the extruded molten resin (26), transporting the cut molten resin lump (27) to the inside of a female mold (28) of a compression molding machine, and compression molding to form a preform, which is then blown into a bottle (10) by biaxial stretch blow molding (column 7, line 60-column 8, line 21). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the method taught by Kikuchi et al. to further define the method taught by Ekart et al., in order to quickly and easily form preforms without the necessity of reheating the resin. The motivation to use the teaching of Kikuchi et al. to modify the teachings of Ekart et al. is that

both are in the same field of endeavor and solve the same problem, that of molding preforms from polyester resin in an efficient and cost effective manner.

Regarding claim 5, Ekart et al. does not teach that the preform is multilayered. Kikuchi et al. teaches continuously feeding two different resins (A, B) to a multilayered die (23), extruding the multilayered resins through a nozzle (24), cutting the extruded molten resin (26), transporting the cut molten resin lump (27) to the inside of a female mold (28) of a compression molding machine, and compression molding to form a multilayered preform, which is then blown into a multilayered bottle (10) by biaxial stretch blow molding (column 7, line 60-column 8, line 21). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the method taught by Kikuchi et al. to modify the method taught by Ekart et al., in order to quickly and easily form multilayered preforms without the necessity of reheating the resins, and to form them in one extrusion step instead of one step for each resin.

Regarding claim 6, Ekart et al. does not teach specifically that the bottle is filled and capped after it is formed. It is generally well known in the art to fill and cap bottles after they are blow-molded. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the bottle taught by Ekart et al. in generally known techniques such as filling and capping bottles, in order to form a finished product.

### *Conclusion*

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rees (US Patent 5,971,740).

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne E. McDowell whose telephone number is (571) 272-1205. The examiner can normally be reached on Tuesday-Thursday 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Suzanne E. McDowell  
Primary Examiner  
Art Unit 1732